

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 24335WO	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/NL2004/000858	International filing date (day/month/year) 09 December 2004 (09.12.2004)	Priority date (day/month/year) 17 December 2003 (17.12.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant DSM IP ASSETS B.V.		

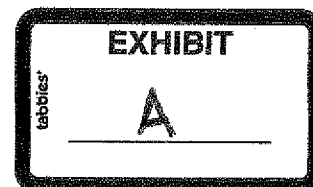
1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.
3. This report contains indications relating to the following items:
 

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application
4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 20 June 2006 (20.06.2006)
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Form PCT/IB/373 (January 2004)

03/07/2006



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To:

see form PCT/ISA/220

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY  
(PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

FOR FURTHER ACTION  
See paragraph 2 below

International application No.  
PCT/NL2004/000858

International filing date (day/month/year)  
09.12.2004

Priority date (day/month/year)  
17.12.2003

International Patent Classification (IPC) or both national classification and IPC  
C08K5/098, C08L67/02, C08L77/00

Applicant  
DSM IP ASSETS B.V.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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03/07/2006

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Box No. I Basis of the opinion

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1. With regard to the language, this opinion has been established on the basis of the International application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material:  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing:  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement

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1. Statement

Novelty (N)	Yes: Claims	1,9,12
	No: Claims	
inventive step (IS)	Yes: Claims	
	No: Claims	1,9,12
industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: WO 01/10947 A (EASTMAN CHEM CO) 15 February 2001 (2001-02-15)  
D2: WO 99/15433 A (BARKSI ROMAN F JR; CAHILL PAUL J (US); AMOCO CORP (US);  
ROTTER GEORGE) 1 April 1999 (1999-04-01)

### 1 Novelty (Article 33(2) PCT)

1.1 Present Main Claims 1, 9 and 12 describe an oxygen scavenging composition, its use for oxygen scavenging objects as well as related objects. The composition acc. to Claim 1 is required to comprise a polycondensate, an oxidation catalyst and a copolymer comprising polypropylene oxide (= ppo) segments, characterised by its preparation from monomers polymerised in presence of the ppo segments.

1.2 D2, cited by the applicant in the description, discloses a similar oxygen scavenging composition which differs in that the ppo segment copolymer has been prepared by reacting the ppo segments with a pre-formed polymer (cf. p.32 and table 3 on p.33).

1.3 D1 claims a composition comprising copolymers which also may include ppo containing segments (cf. claims 1,3). In the examples (cf. esp. exs. 18-21) a different polyalkylene oxide copolymer is prepared by reaction of the polyalkylene oxide component (apparently polybutylene oxide) with comonomers, apparently in analogy to the process of the Application.

1.4 Present Claims 1, 9 and 12 appear to meet the requirements of Art. 33(2) PCT.

### 2 Inventive Step (Article 33(3) PCT)

2.1 D1 which appears to represent the closest prior art, discloses a composition from which the composition of present Claim 1 differs in that copolymers comprising ppo segments are used.

2.2 However, this differing technical feature does not appear to produce any marked technical effect over the prior art (cf. e.g. ex.18 / table 9 of D1).

2.3 The problem of the present application could thus be described as providing an alternative oxygen scavenging composition which can easily be solved by the skilled person by a straight-away choice of materials.

2.4 Present Claims 1, 9 and 12 do therefore not appear to meet the requirements of Art. 33(3) PCT.

### 3 Description

To meet the requirements of Rule 5.1(a)(ii) PCT, document D1 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.